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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,869	04/09/2004	Werner Berens	P25088	9283
7055	7590	11/08/2005		
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER VENKAT, JYOTHSNA A	
			ART UNIT	PAPER NUMBER
			1615	

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/820,869	<b>Applicant(s)</b> BERENS ET AL.	
	<b>Examiner</b> JYOTHSNA A. VENKAT Ph. D	<b>Art Unit</b> 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 3-7, 10, 11, 15-22, 24-29, 32, 33 and 36-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-7, 10, 11, 15-22, 24-29, 32, 33 and 36-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Receipt is acknowledged of amendment filed on 8/10/05. Claim 41 has been added as per applicant's amendment dated 8/10/05. Claims 8-9, 12-14, 23, and 30-31, and 34-35 are withdrawn from consideration drawn to the non-elected invention. Claims 3-7, 10-11, 15-22, 24-29 and 32-33 and 36-41 are pending in the application and the status of the application is as follows:

The following new ground of rejection is necessitated by the amendment.

#### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-5, 15-22, 24-29 and 36-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The metes and bounds of the expression "cytokinins" can not be determined from the disclosure, since the specification fails to define the scope of the expression encompasses by "cytokinins".

#### *Claim Rejections - 35 USC § 102*

3. Claims 3-6, 10-11, 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1 000 622 ('622).

The claims are drawn to compositions and therefore the preamble and the intended use does not carry any patentable weight. See col.1, lines 5-10 and see line 9 for "adenine,

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hypoxanthine and guanine". See page 3, lines 1-5 for the dosage range and this reads on the claimed percent weight.

4. Claims 3-6 and 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by CA abstract 87: 95916 (1977).

The claims are drawn to compositions and therefore the preamble and the intended use does not carry any patentable weight. See abstract for 6-thioguanine and the concentration claimed is within the concentration claimed.

5. Claims 3-7, 10-11, 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent 3,939,089 ('089)

The claims are drawn to compositions and therefore the preamble and the intended use does not carry any patentable weight. See col.2, lines 5-15 for "purine, adenine, hypoxanthine, purinethiol and guanine". See same column, lines 43-44 for the range and this reads on the claimed percent weight.

6. Claims 3-6, 10-11, 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 03-133920 ('920 abstract).

The claims are drawn to compositions and therefore the preamble and the intended use does not carry any patentable weight. See the abstract for "adenine and guanine" and the claimed percent weight.

7. Claims 3-5, 16-22 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent 5,151,425 ('425)

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8. The claims are drawn to compositions and therefore the preamble and the intended use does not carry any patentable weight. See col.1, lines 45-50 for zeatin and kinetin. See col.2, lines 42-47 for the range, which reads on the claimed percent by weight.

9. **This application contains claims 8-9, 12-14, 23, and 30-31, and 34-35 are drawn to an invention nonelected with traverse in dated 2/14/05. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.**

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

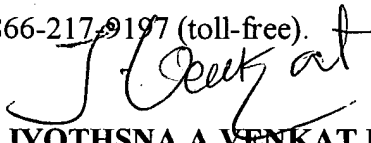
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT Ph. D whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30: 1st Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN K. PAGE can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**JYOTHSNA A VENKAT Ph. D**  
**Primary Examiner**  
**Art Unit 1615**

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